

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL NO. G-15-MJ-19
	§	
MOJMIR PALENIK	§	

OPINION AND ORDER

On May 14, 2015, the Court heard the request for release on bond of Mojmir Palenik whose extradition has been requested by the Czech Republic as a result of his criminal conviction and four year sentence in that country for fraud. Having now considered the evidence and applicable law the Court issues this Opinion and Order.

Palenik, a native of the Czech Republic, came to the United States around 2000. In 2004 Palenik was tried *in absentia* and, quite understandably, convicted in the Czech Republic. By at least 2010 Palenik learned of his conviction. Palenik's circumstances were even disclosed to the Citizenship and Immigration Services which accepted his application for a waiver of his inadmissibility and, apparently, gave him work authority. Notwithstanding, the Czech Republic officially requested Palenik's extradition pursuant to its Treaty with the United States and Palenik was arrested.

In support of his request for bail Palenik argues that his continued incarceration will cause hardship on his wife, child and step-children. He also complains that the lapse of time since his conviction will make it difficult, if not impossible, to adequately defend

himself against the stale charges for which he is entitled to a new trial in the Czech Republic.

Unfortunately, for Palenik, there is a presumption against bail in extradition cases. In the Matter of the Extradition of Russell, 805 F.2d 1215, 1216 (5th Cir. 1986) Moreover, neither severe financial and emotional hardship on Palenik and his family, which will be present in most cases, nor the complexity of his criminal trial in the Czech Republic constitute the “special circumstances” required to be proven to justify bail. Furthermore, it is not the function of this Court to consider the fairness of the Czech Republic’s legal system, that inquiry is the function of the Secretary of State. Hoxha v. Levi, 465 F.3d 554, 563 (3rd Cir. 2006)

It is, therefore, **ORDERED** that Palenik’s request for bail is **DENIED**.

DONE at Galveston, Texas, this 29th day of May, 2015.



John R. Froeschner
United States Magistrate Judge